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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,925	08/26/2003	Donald Ray Disney	03692.P054D2	2438
27660	7590	07/02/2004	EXAMINER	
BURGESS & BEREZNAK LLP 800 WEST EL CAMINO REAL SUITE 180 MOUNTAIN VIEW, CA 94040			LOKE, STEVEN HO YIN	
			ART UNIT	PAPER NUMBER
			2811	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,925

Applicant(s)

DISNEY, DONALD RAY

Examiner

Steven Loke

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-49 and 51-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-49 and 51-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/6/04</u> . | 6) <input type="checkbox"/> Other: _____ |

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 46-49 and 51-54 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7, 8 and 10 of U.S. Patent No. 6,465,291 (Disney). Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application and the Disney patent disclose (in regards to claim 46) a method of fabricating complementary high-voltage field-effect transistors (HVFETS) in a substrate of a first conductivity type (lines 1-3 of claim 7), comprising: forming first and second well regions of a second conductivity type in the substrate (lines 4-6 of claim 7); forming a first source region in the substrate adjacent the first well region (lines 26-28 of claim 7); forming a first drain region of the second conductivity type in the first well region (lines 25-26 of claim 7); forming second and third drain regions of the first conductivity type in the second well region, the second drain region being separated from the third drain region (lines 14-21 of claim 7); forming a second source region of the first conductivity type in the second well region, the second source region being separated from the second drain region

(lines 14-24 of claim 7); forming first and second buried layers within the first and second well regions, respectively, the second buried layer being connected to the second and third drain regions (lines 7-10 and 33-38 of claim 7); and forming first and second insulated gates (lines 11-13 of claim 7).

In regards to claim 47, Disney further discloses the first insulated gate is formed above an area of the substrate that separates the first source region from the first well region (lines 11-13 and 30-32 of claim 7).

In regards to claim 48, Disney further discloses the second insulated gate is formed above an area of the second well region that separates the second source region from the second drain region (lines 11 and 21-24 of claim 7).

In regards to claim 49, Disney further discloses the first conductivity type is P-type (lines 1-2 of claim 8) and Disney inherently discloses the second conductivity type is N-type.

In regards to claim 51, Disney discloses a method of fabricating complementary power transistors in a substrate of a first conductivity type (lines 1-3 of claim 7). It comprising: forming first and second well regions of a second conductivity type opposite to the first conductivity type in the substrate (lines 4-6 of claim 7); forming first and second drain regions of the first conductivity type in the first well region, the second drain region being separated from the first drain region (lines 14-21 of claim 7); forming a third drain region of the second conductivity type in the second well region (lines 25-26 of claim 7); forming first and second buried layers within the first and second well regions, respectively, the first buried layer adjoining the first and second drain regions

(lines 7-10 and 33-38 of claim 7); and forming first and second insulated gates (lines 11-13 of claim 7).

In regards to claim 52, Disney further discloses the first conductivity type is P-type (lines 1-2 of claim 8).

In regards to claim 53, Disney further discloses the first and second buried layers are formed simultaneously by implanting a first dopant (lines 7-10 of claim 7 and lines 1-3 of claim 10).

In regards to claim 54, Disney differs from the claim invention by not showing the dopant is boron. It would have been obvious for the dopant is boron, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. In re Leshin, 125 USPQ 416.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Loke whose telephone number is (571) 272-1657. The examiner can normally be reached on 7:50 am to 5:20 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Lee can be reached on (571) 272-1732. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sl
June 29, 2004

Steven Loke
Primary Examiner

A handwritten signature in cursive script, appearing to read "Steven Loke", written in black ink.